

Discharging Matters From Committees

§ 1. In General; Motion to Discharge

The House, by rule, has made provisions for discharging matters from committees. Under Rule XXVII clause 4,⁽¹⁾ a Member may file with the Clerk a motion to discharge a committee from the consideration of a public bill or resolution referred to it 30 legislative days prior thereto. The rule may also be invoked to discharge a resolution pending in the Committee on Rules for more than seven legislative days providing for consideration of a measure favorably reported by a standing committee or pending before such committee for 30 legislative days.⁽²⁾

The primary purpose of the discharge petition is to extract from a committee, for House action, legislation opposed by a majority of the committee members or where a committee fails to act.

The motion must be in writing and signed by a majority of the Members, and this has been interpreted to mean that the motion requires the signatures of 218 Members of the House.⁽³⁾ Dele-

gates may not sign a discharge petition. The signatures on the motion may not be made public until the requisite number of Members have signed it.⁽⁴⁾ The death or resignation of a signatory of the motion does not invalidate his signature,⁽⁵⁾ but for a Member elected in a special election to fill a vacancy to sign a petition, the signature of his predecessor must be removed.⁽⁶⁾

When the requisite number of signatures are obtained, the motion is entered on the Journal, printed with the signatures thereto in the *Congressional Record*, and referred to the Calendar of Motions to Discharge Committees.⁽⁷⁾ A reported bill is no longer susceptible to the motion, though reported in the interval between completed signing of the petition and the calling up of the motion.⁽⁸⁾

placed in the discharge rule in the 69th Congress. Prior to that time, fewer signatures had been required on a discharge petition. For the history of the rule, see 7 Cannon's Precedents § 1007.

1. *House Rules and Manual* § 908 (1979).

2. See §§ 2.4, 2.5, *infra*.

3. See §§ 1.2, 1.3, *infra*. The requirement of "a majority of Members" was

4. See § 1.7, *infra*.

5. See § 1.5, *infra*.

6. See § 1.4, *infra*.

7. See § 1.9, *infra*.

8. See § 1.13, *infra*.

A motion to discharge a committee from further consideration of a bill

See Chapter 21 (Order of Business; Special Orders), § 16, for discussion on discharge by the Committee on Rules.

Announcement of Filing of Motion

§ 1.1 A Member sometimes announces to the House the filing, pursuant to Rule XXVII clause 4, of a motion to discharge a committee.

On June 17, 1952,⁽⁹⁾ Mr. Paul W. Shafer, of Michigan, announced to the House his filing with the Clerk of a motion to discharge the Committee on the Judiciary from further consideration of a resolution proposing the impeachment of the President.

Signatures on Motion

§ 1.2 A motion to discharge a committee from the further consideration of a bill was held to require the signa-

or resolution operates, when agreed to, upon the bill or resolution as originally referred to the committee rather than as it may have been amended in the committee before the committee acted upon it adversely. 75 CONG. REC. 4705, 72d Cong. 1st Sess., Feb. 25, 1932.

9. 98 CONG. REC. 7424, 82d Cong. 2d Sess.

tures of 218 Members of the House.

On Apr. 15, 1936,⁽¹⁰⁾ the Speaker⁽¹¹⁾ responded to a parliamentary inquiry of Mr. Gerald J. Boileau, of Wisconsin, relative to the number of signatures necessary to effectuate a petition under the discharge rule of the House:

. . . [T]he Chair is constrained to hold that under the "discharge rule" of the House, requiring "a majority of the total membership of the House", the exact number of 218 Members was intended, and is necessary before a discharge petition is effective, and no less number will suffice, irrespective of temporary vacancies due to death, resignation, or other causes.

§ 1.3 The motion to discharge a pay raise bill was signed by the required number of Members.

On June 3, 1960,⁽¹²⁾ the following proceedings occurred:

MR. [JOHN W.] McCORMACK [of Massachusetts]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE:⁽¹³⁾ The gentleman will state it.

MR. McCORMACK: My inquiry is whether or not the discharge petition

10. 80 CONG. REC. 5509, 5510, 74th Cong. 2d Sess.

11. Joseph W. Byrns (Tenn.).

12. 106 CONG. REC. 11837, 86th Cong. 2d Sess.

13. Francis E. Walter (Pa.).

on the pay raise bill has received the required number of signatures, to wit, 219.

THE SPEAKER PRO TEMPORE: According to the Journal clerk the 219 signatures have been obtained.

Parliamentarian's Note: In the 86th Congress, the total membership of the House was 436 due to the election for the first time of a Representative from the newly admitted State of Alaska.

§ 1.4 The death of a Member who had signed a discharge petition does not invalidate the signature, and such signature stands as the legislative act of such deceased Member unless withdrawn by his successor.

On May 31, 1934,⁽¹⁴⁾ Mr. Donald H. McLean, of New Jersey, attempted to sign a discharge petition when he was informed that, since a requisite number of Members (145) had already signed, additional signatures could not be affixed. Since one of the signatures on the petition was of a Member recently deceased (Mr. George F. Brumm, of Pennsylvania), Mr. McLean asked Speaker Henry T. Rainey, of Illinois, if the signature of the deceased was

valid. The following colloquy then took place:

MR. MCLEAN: I understand that one of the signers was that of the late Representative Brumm, of Pennsylvania, who died a few days ago. There is a question as to the effectiveness of his signature, and the question of the effectiveness of his signature is proper for consideration at this time.

THE SPEAKER: Under the rule no signature can be withdrawn except by the Member himself.

MR. MCLEAN: Does the Chair rule that the signature of Mr. Brumm must stand?

THE SPEAKER: The signature can only be removed by the Member, by Mr. Brumm himself, as a Representative of the Thirteenth District of Pennsylvania. When his successor is elected, in all probability his successor would have that right.

MR. MCLEAN: Then, Mr. Speaker, I understand that without my signature the petition is effective?

THE SPEAKER: The gentleman is correct, 145 names being now properly on it.

§ 1.5 Where a motion to discharge a committee had been signed by a former Member, his successor, desiring to sign his own name, by unanimous consent had his predecessor's name removed.

On Jan. 16, 1950,⁽¹⁵⁾ the following colloquy occurred:

15. 96 CONG. REC. 436, 81st Cong. 2d Sess. For further examples, see: 94

14. 78 CONG. REC. 10159, 73d Cong. 2d Sess. In the 72d and 73d Congresses, only 145 signatures were required. See 7 Cannon's Precedents § 1007.

MR. [JOHN F.] SHELLEY [of California]: Mr. Speaker, my predecessor, the Honorable Richard J. Welch, signed Discharge Petition No. 15. I desire to have my name entered on this petition. I ask unanimous consent that his name be taken off the petition so that I may sign it.

THE SPEAKER:⁽¹⁶⁾ Is there objection to the request of the gentleman from California?

There was no objection.

Parliamentarian's Note: Under the current practice, a Member elected to fill a vacancy may remove the name of his predecessor in order to affix his own name.

§ 1.6 Where the name of a Member has been inadvertently removed from a discharge petition as printed in the Record, it may again be placed thereon by unanimous consent.

On Apr. 18, 1946,⁽¹⁷⁾ Mr. Lyndon B. Johnson, of Texas, propounded a unanimous-consent request:

Mr. Speaker, in the Record of yesterday, April 17, the Members who signed

CONG. REC. 1993, 2001, 80th Cong. 2d Sess., Mar. 3, 1948; 92 CONG. REC. 10464-91, 79th Cong. 2d Sess., July 30, 1946; and 92 CONG. REC. 1968, 79th Cong. 2d Sess., Mar. 5, 1946.

16. Sam Rayburn (Tex.).

17. CONG. REC. (daily ed.), 79th Cong. 2d Sess.

discharge petition No. 20 have their names printed. I signed the petition, and my name appeared as the one hundred and ninetieth signature. The Journal clerk has informed me that through some error at the desk my name was eliminated. I ask unanimous consent that my name be restored to the petition and be printed in the permanent Record.

There was no objection to the request.

Examination of Petition

§ 1.7 While a Member has the right to examine a discharge petition, he does not have the right to read to the House the names signed on such petition.

On Mar. 15, 1946,⁽¹⁸⁾ a point of order was raised against the request of Mr. John E. Rankin, of Mississippi, that the Clerk provide him with a discharge petition on the Clerk's desk:

MR. [JOHN J.] COCHRAN [of Missouri]: Mr. Speaker, a point of order.

THE SPEAKER:⁽¹⁹⁾ The gentleman will state it.

MR. COCHRAN: As I understand the rules of the House, it is not permissible to give out anything contained in a petition on the Clerk's desk until the petition has the required number of signers. Then it automatically is printed in

18. 92 CONG. REC. 2329, 79th Cong. 2d Sess.

19. Sam Rayburn (Tex.).

the Record with the signatures thereon.

THE SPEAKER: It is certainly a violation of the rules to do that.

MR. RANKIN: I have not given out anything. Do not get excited. I merely asked for the petition. I have a right to look at it, as a Member of the House.

THE SPEAKER: The gentleman has the right to look at it but he does not have the right to read any of the names on the petition.

Parliamentarian's Note: Only Members may examine the petition in the custody of the Journal clerk, while the House is in session, and they may not reveal the names of Members who have signed or not signed.

Withdrawal of Petition

§ 1.8 By unanimous consent, a discharge petition filed with the Clerk has been withdrawn.

On Mar. 28, 1939,⁽²⁰⁾ Mr. Hamilton Fish, Jr., of New York, asked for unanimous consent to withdraw a motion to discharge the Committee on Rules filed with the Clerk on a previous day. There was no objection to the request.

Placing Motions on Calendar

§ 1.9 Motions to discharge committees are placed on the

20. 84 CONG. REC. 3461, 76th Cong. 1st. Sess.

calendar when they receive the requisite number of signatures.

On Apr. 30, 1936,⁽²¹⁾ Mr. Gerald J. Boileau, of Wisconsin, propounded a parliamentary inquiry as follows:

MR. BOILEAU: I am advised by the Clerk that 218 Members have signed the petition to discharge the Rules Committee from further consideration of the resolution bringing up the Frazier-Lemke bill for consideration on the floor. May I ask the Speaker whether or not the petition is now completed and the matter on the calendar?

THE SPEAKER:⁽²²⁾ The motion is now on the calendar under the rules of the House.

Effect of Inter-session Adjournment

§ 1.10 A discharge petition on the Clerk's desk awaiting signatures carries over from session to session in the same Congress.

On Dec. 19, 1945,⁽¹⁾ during House debate incident to the consideration of a House joint resolution⁽²⁾ changing the date of meet-

21. 80 CONG. REC. 6464, 74th Cong. 2d Sess. For a further illustration see 82 CONG. REC. 1517, 75th Cong. 2d Sess., Dec. 14, 1937.

22. Joseph W. Byrns (Tenn.).

1. 91 CONG. REC. 12346, 79th Cong. 1st Sess.

2. H.J. Res. 294.

ing of the second session of the current Congress, Mr. John H. Folger, of North Carolina, addressed an inquiry to the Chair as follows:

MR. FOLGER: I have a discharge petition on the desk, No. 10, in which I am very, very much interested. I have no objection to this adjournment until the 14th [of January, 1946] unless I have to go back and get that signed anew. Will that carry over?

THE SPEAKER: ⁽³⁾ It will carry over.

MR. FOLGER: If it will I am all right.

THE SPEAKER: Everything remains on the calendar just as it is now.

Bills Reported After Motion Has Been Placed on Calendar

§ 1.11 The motion to discharge a committee from the further consideration of a bill does not apply to a bill that has been reported by a committee during the interval between the placing of the motion to discharge on the calendar and the day when such motion is called up for action in the House.

On Aug. 5, 1949,⁽⁴⁾ the Committee on Post Office and Civil Service reported a bill ⁽⁵⁾ thus ren-

3. Sam Rayburn (Tex.).

4. 95 CONG. REC. 10878, 81st Cong. 1st Sess.

5. H.R. 4495, providing additional benefits for certain postmasters, officers,

dering ineffective a previously calendared motion to discharge the committee from further consideration of the bill.⁽⁶⁾

Parliamentarian's Note: A motion to discharge the Committee on Rules from further consideration of a resolution⁽⁷⁾ making this bill a special order of business was subsequently signed by the requisite number of Members.⁽⁸⁾ This resolution was reported by the Committee on Rules on Sept. 27, 1949,⁽⁹⁾ before the motion could be called up for action in the House.

21-day Rule Distinguished

§ 1.12 The discharge rule authorizes the use of the motion against the Committee on Rules in a proper case. However, the so-called "21-

and employees in the postal field service.

6. See 95 CONG. REC. 9966, 81st Cong. 1st Sess., July 21, 1949, where the motion to discharge the Committee on Post Office and Civil Service received the requisite number of signatures.

7. H. Res. 319.

8. See 95 CONG. REC. 12103, 81st Cong. 1st Sess., Aug. 23, 1949, where the motion to discharge the Committee on Rules received the requisite number of signatures.

9. 95 CONG. REC. 13365, 81st Cong. 1st Sess.

day” rule, which was in effect in the 89th Congress, whereby resolutions pending before the Committee on Rules could be called up for consideration, on discharge calendar days, was held to be unrelated to the motion to discharge under Rule XXVII.

On Sept. 13, 1965,⁽¹⁰⁾ after a House Resolution⁽¹¹⁾ was called up pursuant to Rule XI clause 23 (the 21-day rule), a point of order was raised by Mr. Durward G. Hall, of Missouri:

MR. HALL: Mr. Speaker, I make a point of order against the consideration of this bill by the House based on clause 4 of rule 27, the last line in section 908, the second paragraph, says:

Recognition for the motions shall be in the order in which they have been entered on the Journal.

Responding to the point of order, the Speaker⁽¹²⁾ said:

The Chair will state that the gentleman is talking about an entirely different rule than is the situation now.

. . . .

The Chair would advise the gentleman from Missouri that the House is operating under Rule XI clause 23.

10. 111 CONG. REC. 23618, 89th Cong. 1st Sess.

11. H. Res. 478, providing for consideration of a bill, H.R. 9460, establishing a national foundation on the arts.

12. John W. McCormack (Mass.).

Validity of Committee Report as Affecting Eligibility for Discharge

§ 1.13 Where the House had laid on the table a resolution presented as a question involving the privileges of the House challenging the validity of a committee's action in reporting a bill, the Chair overruled a point of order that the bill was not properly before the House because it had not been read in committee prior to reporting. The discharge rule does not apply to a bill that has been reported by a committee during the interval between the placing of a completed motion to discharge on the calendar and the day when such motion is called up in the House.

On Apr. 23, 1934,⁽¹³⁾ the Committee on Banking and Currency reported a bill, H.R. 7908,⁽¹⁴⁾ for

13. 78 CONG. REC. 7151-61, 73d Cong. 2d Sess.

14. The bill concerned payments of assets in closed banks.

The Committee on Banking and Currency had first reported this bill on Apr. 12. The motion to discharge the committee received the requisite number of signatures on Apr. 13. On Apr. 20, by direction of the Speaker, the Committee of the Whole House

which a motion to discharge was pending on the Calendar of Motions to Discharge Committees. Despite the reporting of the measure by the Committee on Banking and Currency, Mr. Clarence J. McLeod, of Michigan, attempted to call up the motion to discharge the committee on H.R. 7908. It developed in the debate that Mr. McLeod and Mr. Jesse P. Wolcott, of Michigan, viewed the reporting of the bill by the committee as void *ab initio* on the grounds that the committee ordered the reporting of the measure at a time when it sat during a session of the House without the permission of the House and also because the measure reported was not read before the committee. In fact, argued the proponents of the discharge motion, the bill that was reported by the committee was a committee substitute, the text of the bill H.R. 9175, which the committee had inserted after striking

on the state of the Union was discharged from further consideration of the bill; the Speaker held that the purported report on said bill was invalid in that the Committee on Banking and Currency had ordered the report made while the House was in session and that therefore the bill was still with the committee. The bill was again reported by the Committee on Banking and Currency on Apr. 23, as indicated above.

all after the enacting clause of the original bill which had been the subject of the discharge petition signed by the requisite number of Members.⁽¹⁵⁾

After the Speaker⁽¹⁶⁾ sustained a point of order against the calling up of the motion to discharge the committee, on the basis that "inasmuch as the Committee on Banking and Currency has reported the bill, that the effect of that action nullifies the motion to discharge and makes it inoperative,"⁽¹⁷⁾ Mr. Carroll L. Beedy, of Maine, raised a point of order against the bill as reported by the committee because it had never been read for amendment in the committee and was, he argued, not regularly before the House. Mr. Beedy stated:

Mr. Speaker, I make the point of order that the amendment to the McLeod bill, so called, was not introduced in the House until the 17th of April subsequent to the time when any bill of the kind was ever read for amendment in the committee. This fact is undenied.

The bill that was reported never was read for amendment in the committee.

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15. At that time, only 145 signatures were required on a discharge petition. Rule XXVII clause 4, House rules (1934).
 16. Henry T. Rainey (Ill.).
 17. 78 CONG. REC. 7161, 73d Cong. 2d Sess., Apr. 23, 1934.

It is not legally or validly upon the calendar of the House. While the decision of the Chair well presents the fact, assuming that the bill were legally before the House, the Chair has not touched upon the question as to whether it may be in order to call up the discharge rule if the bill attempted to be reported by the committee concerned was not regularly before the House, not having been considered according to the rules of the House.

Mr. Speaker, I make the point of order, therefore, that the bill alleged to have been reported is not legally reported, is in violation of the rules of the House and of the committees of the House, and has no valid standing in the House.

In overruling the point of order, the Speaker advised that he had no knowledge as to what had occurred in committee, stating:

THE SPEAKER: The House passed on that question a few moments ago in a resolution raising the question of the privileges of the House, and passed upon the question adversely to the position taken by the gentleman from Maine.

The Chair has no information as to what occurred in the committee. The only thing the Chair knows is that the McLeod bill, bearing the number it has always borne and with the same title, and with some amendments in which the Chair is not interested, has been reported out, is on the calendar, and can be taken up under the general rules of the House when an opportunity presents itself.

The Chair overrules the point of order.⁽¹⁸⁾

An appeal from the Speaker's ruling was laid on the table.⁽¹⁹⁾

Parliamentarian's Note: The point of order in the preceding precedent is probably based upon §412 of Jefferson's Manual, which had been mentioned earlier in the debate as requiring a reading for amendment of a bill in committee.

Immediately prior to the calling up of the motion to discharge, the validity of the actions taken by the Committee on Banking and Currency leading up to the reporting of the bill on Apr. 23 had been called to the attention of the House. Mr. Beedy had submitted as a question of the privileges of the House a resolution, H. Res. 349, questioning whether the House should receive the report. The resolution stated certain events which occurred in the committee on Apr. 21 which were not in accordance with the rules of the House. Mr. John E. Rankin (Miss.) had made a point of order that the resolution did not present a question of the privileges of the House. Mr. Thomas L. Blanton (Tex.) made the further point of order that the resolution was an attempt to impeach the actions of the committee. The Speaker held that the resolution did present a question of privilege. The resolution was then laid on the table without debate.

19. See H. Jour. 431, 73d Cong. 2d Sess., Apr. 23, 1934.

18. *Id.*